

By

Gibson

H.B. No. 1146

A BILL TO BE ENTITLED

AN ACT

relating to the continuation, functions, and change of the name of the State Purchasing and General Services Commission, the transfer of responsibility for architectural barrier programs from the commission to the Texas Department of Licensing and Regulation, and the acquisition by the commission and other entities of property and services, including consulting services and school buses; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

PART 1. ADMINISTRATION OF GENERAL SERVICES COMMISSION

SECTION 1.01. Section 1.02(1), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Commission" means the [~~State--Purchasing--and~~] General Services Commission.

SECTION 1.02. Section 2.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.01. COMMISSION. The [~~State-Purchasing-and~~] General Services Commission is an agency of the state [~~established~~].

SECTION 1.03. Section 2.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.02. MEMBERSHIP. The commission is composed of six

1 [three] members appointed by the governor with the advice and
2 consent of the senate. All members must be representatives of the
3 general public. Appointments to the commission shall be made
4 without regard to the race, color, handicap, sex, religion, age, or
5 national origin of the appointees. A person is not eligible for
6 appointment if the person or the person's spouse:

7 (1) is employed by or participates in the management
8 of a business entity or other organization that contracts with the
9 commission;

10 (2) owns or controls, directly or indirectly, more
11 than a 10 percent interest in a business entity or other
12 organization that contracts with the state; or

13 (3) uses or receives a substantial amount of tangible
14 goods, services, or funds from the commission, other than
15 compensation or reimbursement authorized by law for commission
16 membership, attendance, or expenses.

17 SECTION 1.04. Section 2.03, State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended to read as follows:

20 Sec. 2.03. TERMS. Members of the commission hold office for
21 staggered terms of six years, with two members' terms [~~a--member's~~
22 ~~term~~] expiring on January 31 of each odd-numbered year.

23 SECTION 1.05. Section 2.04, State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
25 amended by amending Subsection (c) and adding Subsection (d) to
26 read as follows:

27 (c) Four [~~Two~~] members of the commission constitute a

1 quorum.

2 (d) The commission shall develop and implement policies that
3 provide the public with a reasonable opportunity to appear before
4 the commission and to speak on any issue under the jurisdiction of
5 the commission.

6 SECTION 1.06. Article 2, State Purchasing and General
7 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
8 amended by adding Section 2.051 to read as follows:

9 Sec. 2.051. REMOVAL OF COMMISSION MEMBERS. (a) It is a
10 ground for removal from the commission if a member:

11 (1) violates a prohibition established by Section
12 2.061 of this Act;

13 (2) cannot discharge the member's duties for a
14 substantial part of the term for which the member is appointed
15 because of illness or disability; or

16 (3) is absent from more than half of the regularly
17 scheduled commission meetings that the member is eligible to attend
18 during a calendar year unless the absence is excused by majority
19 vote of the commission.

20 (b) The validity of an action of the commission is not
21 affected by the fact that it is taken when a ground for removal of
22 a commission member exists.

23 (c) If the executive director has knowledge that a potential
24 ground for removal exists, the executive director shall notify the
25 chairman of the commission of the ground. The chairman shall then
26 notify the governor that a potential ground for removal exists.

27 SECTION 1.07. Section 2.06, State Purchasing and General

1 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
2 amended by amending Subsection (b) and adding Subsections (e)-(k)
3 to read as follows:

4 (b) The executive director shall manage the affairs of the
5 commission subject to and under the direction of the commission,
6 except for capitol security matters as provided by Section 4.12(g)
7 of this Act. All direction of the commission to the executive
8 director shall be made at an open meeting of the commission and
9 made a part of the minutes of the commission. A member of the
10 commission may not grant any authority to the executive director or
11 any other employee by power of attorney.

12 (e) The commission shall provide to its members and
13 employees, as often as necessary, information regarding their
14 qualifications for office or employment under this Act and their
15 responsibilities under applicable laws relating to standards of
16 conduct for state officers or employees.

17 (f) The commission shall develop and implement policies that
18 clearly define the respective responsibilities of the commission
19 and the staff of the commission.

20 (g) The executive director or the executive director's
21 designee shall develop an intra-agency career ladder program. The
22 program shall require intra-agency postings of all nonentry level
23 positions concurrently with any public posting.

24 (h) The executive director or the executive director's
25 designee shall develop a system of annual performance evaluations.
26 All merit pay for commission employees must be based on the system
27 established under this subsection.

1 (i) The executive director or the executive director's
2 designee shall prepare and maintain a written policy statement to
3 assure implementation of a program of equal employment opportunity
4 under which all personnel transactions are made without regard to
5 race, color, handicap, sex, religion, age, or national origin. The
6 policy statement must include:

7 (1) personnel policies, including policies relating to
8 recruitment, evaluation, selection, appointment, training, and
9 promotion of personnel;

10 (2) a comprehensive analysis of the commission work
11 force that meets federal and state guidelines;

12 (3) procedures by which a determination can be made of
13 significant underuse in the commission work force of all persons
14 for whom federal or state guidelines encourage a more equitable
15 balance; and

16 (4) reasonable methods to appropriately address those
17 areas of significant underuse.

18 (j) A policy statement prepared under Subsection (i) of this
19 section must cover an annual period, be updated at least annually,
20 and be filed with the governor's office.

21 (k) The governor's office shall deliver a biennial report to
22 the legislature based on the information received under Subsection
23 (j) of this section. The report may be made separately or as a
24 part of other biennial reports made to the legislature.

25 SECTION 1.08. Article 2, State Purchasing and General
26 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
27 amended by adding Section 2.061 to read as follows:

1 Sec. 2.061. CONFLICT OF INTEREST. (a) An officer,
2 employee, or paid consultant of a Texas trade association of
3 business entities that contracts with the state may not be a member
4 of the commission or an employee of the commission who is exempt
5 from the state's position classification plan or is compensated at
6 or above the amount prescribed by the General Appropriations Act
7 for step 1, salary group 17, of the position classification salary
8 schedule.

9 (b) A person who is the spouse of an officer, manager, or
10 paid consultant of a Texas trade association of business entities
11 that contracts with the state may not be a commission member and
12 may not be a commission employee who is exempt from the state's
13 position classification plan or is compensated at or above the
14 amount prescribed by the General Appropriations Act for step 1,
15 salary group 17, of the position classification salary schedule.

16 (c) For the purposes of this section, a trade association is
17 a nonprofit, cooperative, and voluntarily joined association of
18 business or professional competitors designed to assist its members
19 and its industry or profession in dealing with mutual business or
20 professional problems and in promoting their common interest.

21 (d) A person may not be a member of the commission or act as
22 the general counsel to the commission if the person is required to
23 register as a lobbyist under Chapter 305, Government Code, because
24 of the person's activities for compensation on behalf of a
25 profession related to the operation of the commission or a business
26 entity that contracts with the state.

27 SECTION 1.09. Section 2.07, State Purchasing and General

1 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
2 amended to read as follows:

3 Sec. 2.07. APPLICATION OF SUNSET ACT. The commission is
4 subject to [~~the-Texas-Sunset-Act--{~~]Chapter 325, Government Code
5 (Texas Sunset Act). Unless continued in existence as provided by
6 that chapter [Act], the commission is abolished and this Act
7 expires September 1, 2003 [~~1991~~].

8 SECTION 1.10. Section 2.08, State Purchasing and General
9 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
10 amended to read as follows:

11 Sec. 2.08. REPORTS [REPOR~~T~~]. (a) Not later than the 30th
12 day after the date on which each regular session of the legislature
13 begins, the commission shall report to the legislature concerning
14 the activities of the commission during the preceding legislative
15 interim and shall recommend any amendments to current law that
16 would result in an increase in efficiency, economy, or productivity
17 in the areas monitored by the commission.

18 (b) The commission shall file annually with the governor and
19 the presiding officer of each house of the legislature a complete
20 and detailed written report accounting for all funds received and
21 disbursed by the commission during the preceding fiscal year. The
22 annual report must be in the form and reported in the time provided
23 by the General Appropriations Act.

24 SECTION 1.11. Article 2, State Purchasing and General
25 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
26 amended by adding Section 2.10 to read as follows:

27 Sec. 2.10. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a)

1 The commission shall prepare information of public interest
2 describing the functions of the commission and the commission's
3 procedures by which complaints are filed with and resolved by the
4 commission. The commission by rule shall establish methods by
5 which consumers, service recipients, and persons contracting with
6 the state under authority of this Act are notified of the name,
7 mailing address, and telephone number of the commission for the
8 purpose of directing complaints to the commission. The commission
9 shall make the information available to the public and appropriate
10 state agencies.

11 (b) The commission shall keep an information file about each
12 complaint filed with the commission that the commission has
13 authority to resolve. If a written complaint is filed with the
14 commission that the commission has authority to resolve, the
15 commission, at least quarterly and until final disposition of the
16 complaint, shall notify the parties to the complaint of the status
17 of the complaint unless the notice would jeopardize an undercover
18 investigation.

19 (c) The commission shall prepare and maintain a written plan
20 that describes how a person who does not speak English or who has a
21 physical, mental, or developmental disability can be provided
22 reasonable access to the commission's programs.

23 PART 2. COMMISSION FUNCTIONS UNDER THE STATE PURCHASING
24 AND GENERAL SERVICES ACT

25 SECTION 2.01. Article 2, State Purchasing and General
26 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
27 amended by adding Section 2.11 to read as follows:

1 Sec. 2.11. DISADVANTAGED BUSINESSES. (a) The commission
2 shall establish a disadvantaged business program consistent with
3 the General Appropriations Act and general law.

4 (b) The commission shall:

5 (1) set and strive to meet annual goals for the
6 awarding of contracts to disadvantaged businesses;

7 (2) attempt to identify disadvantaged businesses in
8 the state that provide or have the potential to provide supplies,
9 materials, equipment, or services to the state;

10 (3) take steps to assist and encourage disadvantaged
11 businesses located in this state to bid for contracts with the
12 state;

13 (4) give disadvantaged businesses full access to the
14 commission's bidding and proposal process;

15 (5) inform and offer assistance to disadvantaged
16 businesses regarding the commission's bidding and proposal process;
17 and

18 (6) identify barriers to participation by
19 disadvantaged businesses in the commission's bidding and proposal
20 process.

21 (c) The commission shall appoint an advisory committee with
22 at least three members composed of owners of disadvantaged
23 businesses. A committee member serves at the will of the
24 commission. A committee member may not receive compensation for
25 service on the committee but is entitled to reimbursement for
26 actual and necessary expenses incurred in performing functions as a
27 member of the committee. The committee shall study the

1 commission's rules and procedures that relate to bidding,
2 purchasing, and contracting with the state in general. The
3 committee shall recommend changes in law to the legislature and
4 changes in rules to the commission that are necessary to facilitate
5 the participation of disadvantaged businesses in state contracting.

6 (d) This section does not exempt the commission from
7 competitive procurement requirements provided by law.

8 SECTION 2.02. Sections 3.08(a), (c), (e), and (f), State
9 Purchasing and General Services Act (Article 601b, Vernon's Texas
10 Civil Statutes), are amended to read as follows:

11 (a) State agencies are delegated the authority to purchase
12 supplies, materials, and equipment if the purchase does not exceed
13 \$5,000 [~~\$500~~]. The commission by rule shall prescribe procedures
14 for these purchases, and by rule may delegate to state agencies the
15 authority to purchase supplies, materials, or equipment if the
16 purchase exceeds \$5,000 [~~\$500~~].

17 (c) Competitive bidding, whether formal or informal, is not
18 required for a purchase by a state agency if the purchase does not
19 exceed \$1,000 [~~\$100~~], or a greater amount prescribed by rule of the
20 commission.

21 (e) Large purchases may not be divided into small lot
22 purchases in order to meet the specified dollar limits. The
23 commission may not require that unrelated purchases be combined
24 into one purchase order in order to exceed the specified dollar
25 limits.

26 (f) Agencies making purchases under this section for which
27 competitive bidding is required must attempt to obtain at least

1 three competitive bids from sources which normally offer for sale
2 the merchandise being purchased and must comply with Section 3.101
3 of this article.

4 SECTION 2.03. Article 3, State Purchasing and General
5 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
6 amended by adding Section 3.101 to read as follows:

7 Sec. 3.101. BIDDERS LISTS. (a) This section:

8 (1) applies to all purchases under this article for
9 which competitive bidding or competitive sealed proposals are
10 required;

11 (2) applies to all state agencies that make purchases
12 under this article, including the commission and agencies that make
13 purchases under Section 3.06 of this article; and

14 (3) does not apply to purchases made by the commission
15 under Section 3.11 of this article.

16 (b) Each state agency shall maintain a bidders list and
17 annually register on the list the name and address of each vendor
18 that applies for registration in accordance with rules adopted
19 under this section. An agency may include other relevant vendor
20 information on the list. Each agency shall solicit bids or
21 proposals from all eligible vendors on the list, as provided by
22 this section, when the agency proposes to make a purchase that will
23 cost more than \$5,000.

24 (c) A state agency may charge applicants for registration a
25 fee and may charge registrants an annual renewal fee in an amount
26 designed to recover the agency's costs in developing and
27 maintaining its bidders list and in soliciting bids or proposals

1 under this section. An agency shall set the amount of the fees by
2 rule.

3 (d) Each state agency shall adopt procedures for developing
4 and maintaining its bidders list, including procedures that state
5 the information required from applicants for registration and
6 procedures for removing inactive vendors from the list.

7 (e) Each state agency shall establish by rule a vendor
8 classification process under which only vendors that may be able to
9 make a bid or proposal on a particular purchase are solicited under
10 this section.

11 (f) The commission may establish by rule a process under
12 which the requirement for soliciting bids or proposals from
13 eligible vendors on the bidders list may be waived for appropriate
14 state agencies or appropriate purchases in circumstances in which
15 the requirement is not warranted. The commission also may assist
16 state agencies regarding issues that arise under this section.

17 SECTION 2.04. Section 3.11(b), State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended to read as follows:

20 (b) Bidders List. The commission shall maintain a bidders
21 list and shall add or delete names from the list by the application
22 and utilization of applicable standards set forth in Subsection (e)
23 of this section. Bid invitations shall be sent only to those who
24 have expressed a desire to bid on the particular types of items
25 which are the subject of the bid invitation. Use of the bidders
26 list shall not be confined to contract purchases but it may be used
27 by the commission [~~as--it--may--find--desirable~~] in making any

1 purchase.

2 SECTION 2.05. Section 3.17, State Purchasing and General
3 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
4 amended to read as follows:

5 Sec. 3.17. SPECIFICATIONS AND STANDARDS PROGRAM; TEST AND
6 INSPECTION PROGRAM. (a) The commission shall have the authority
7 to establish and maintain a specifications and standards program to
8 coordinate the establishment and maintenance of uniform standards
9 and specifications for materials, supplies, and equipment purchased
10 by the commission. The commission shall enlist the cooperation of
11 other state agencies in the establishment, maintenance, and
12 revision of uniform standards and specifications and shall
13 encourage and foster the use of standard specifications in order
14 that the most efficient purchase of materials, supplies, and
15 equipment may be continuously accomplished.

16 (b) The commission shall ~~[may-also]~~ establish and maintain a
17 program of testing and inspecting to ensure that materials,
18 supplies, services, and equipment meet specifications, and may make
19 contracts for testing. If any state agency determines that any
20 supplies, materials, services, or equipment received do not meet
21 specifications, it shall promptly notify the commission in writing
22 detailing the reasons why the supplies, materials, services, or
23 equipment do not meet the specifications of the contract. The
24 commission shall immediately determine whether or not the reported
25 supplies, materials, services, or equipment meet specifications.
26 The sole power to determine whether materials, supplies, services,
27 and equipment meet specifications shall rest with the commission.

1 The commission shall adopt rules that provide for the inspecting
2 and testing of costly purchases that the commission determines
3 should be inspected and tested. When the commission finds that
4 contract specifications or conditions have not been complied with,
5 it shall take action, with the assistance of the attorney general,
6 if necessary, against the defaulting contractor.

7 SECTION 2.06. Article 3, State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
9 amended by adding Section 3.181 to read as follows:

10 Sec. 3.181. STATEWIDE OR REGIONAL SERVICES
11 CONTRACTS; COMMISSION STUDIES. (a) The commission annually shall
12 select for study at least one service that is purchased by one or
13 more state agencies. The commission shall study a selected service
14 to determine whether the state would benefit if the service were
15 provided to appropriate state agencies under a regional or
16 statewide contract. The commission shall give priority to studying
17 services for which the commission has delegated the purchasing
18 function to many state agencies.

19 (b) The commission is not required to enter into a statewide
20 or regional contract for the provision of a service to state
21 agencies if more than five bidders are willing to provide the
22 service to the state under a statewide or regional contract.

23 SECTION 2.07. Section 3.23, State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
25 amended to read as follows:

26 Sec. 3.23. CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE
27 [CORRECTIONS]. The commission is [hereby] authorized to make

1 contracts with the Texas Department of Criminal Justice
2 [~~Corrections~~] for the purchase of supplies, equipment, services,
3 and materials for use by other state agencies.

4 SECTION 2.08. Sections 4.12(g) and (m), State Purchasing and
5 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
6 are amended to read as follows:

7 (g)(1) The commission shall carry out the provisions of this
8 section through a chief of capitol security. The commission shall
9 select the chief at a meeting held under Section 2.04 of this Act.
10 The chief serves at the direction and at the pleasure of the
11 commission and reports directly to the commission. All direction
12 of the commission to the chief shall be made at an open meeting of
13 the commission and made a part of the minutes of the commission.
14 The chief shall develop and submit to the commission for approval a
15 plan for the commission's security function under this section.
16 The plan shall clearly set forth both the mission of the security
17 function and the duties and management responsibility associated
18 with the security function in the context of the commission's other
19 programs and functions. The chief shall also develop and submit to
20 the commission for approval personnel policies and procedures that
21 relate to the security function under this section. The commission
22 may commission the chief as a peace officer.

23 (2) The commission is authorized to employ other
24 security officers for the purpose of assisting the chief in
25 carrying out the provisions of this section and may commission such
26 security officers as it deems necessary as peace officers. When so
27 commissioned, said officers are [~~hereby~~] vested with all the

1 powers, privileges, and immunities of peace officers; provided,
2 that the chief and each security officer shall take and file the
3 oath required of peace officers and shall execute and file with the
4 commission a good and sufficient bond in the sum of \$1,000 payable
5 to the governor of this state and his successors in office with two
6 or more good and sufficient sureties conditioned that he will
7 fairly and faithfully perform all of the duties as may be required
8 of him by law, and that he will fairly and impartially enforce the
9 law of this state and that he will pay over any and all money, or
10 turn over any and all property, to the proper person legally
11 entitled to the same, that may come into his possession by virtue
12 of such office. Said bond shall not be void for the first recovery
13 but may be sued on from time to time in the name of any person
14 injured until the whole amount thereof is recovered. It shall be
15 unlawful and constitute a misdemeanor punishable as provided in
16 this section for any person or persons to impersonate the chief or
17 any of said officers.

18 (m) Nothing herein contained shall be construed to abridge
19 the authority of the commission to grant permission to use [the
20 ~~capitol grounds and~~] any grounds adjacent to any state building for
21 such use as may be provided by preexisting law.

22 SECTION 2.09. Subsection (1), Section 4.15, State Purchasing
23 and General Services Act (Article 601b, Vernon's Texas Civil
24 Statutes), as added by Section 1, Chapter 1244, Acts of the 71st
25 Legislature, Regular Session, 1989, is redesignated as Subsection
26 (m) and amended to read as follows:

27 (m) [~~††~~] If the commission determines under Section 5.34 of

1 this Act that the purchase of an existing building is more
2 advantageous to the state than the construction of a new building
3 but a purchase of the building would be subject to existing leases
4 that exceed 15 percent of the total space in the building, the
5 commission may purchase the building subject to existing leases
6 notwithstanding Subsection (c) of this section. When an existing
7 lease expires, the commission may renew the lease subject to this
8 section, including Subsection (c).

9 SECTION 2.10. Subsection (a), Section 5.01A, State
10 Purchasing and General Services Act (Article 601b, Vernon's Texas
11 Civil Statutes), is amended to read as follows:

12 (a) In acquiring real property, each using agency of the
13 state, other than those specifically excluded by Sections 5.13 and
14 5.14 of this article, shall give first consideration to a building
15 that is a historic structure under Section 442.001, Government Code
16 [~~87-Chapter-5007-Acts-of-the--55th--Legislature7--Regular--Session7~~
17 ~~1957--as-amended--(Article-61457-Vernon's-Texas-Civil-Statutes)~~], or
18 to a building that has been designated a landmark by the local
19 governing authority, if the building meets requirements and
20 specifications and the cost is not substantially higher than other
21 available structures that meet requirements and specifications.

22 SECTION 2.11. Section 5.12, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 Sec. 5.12. DEFINITIONS. The following terms whenever used
26 or referred to in this article shall have the following meanings,
27 except in those instances where the context clearly indicates

1 otherwise:

2 (1) "Using agency" means any instrumentality of the
3 state which shall occupy and make use of a state-owned or
4 state-leased building, and for the purpose of this article the
5 commission shall be considered as the using agency for [~~the--state~~
6 ~~capitol,--the--governor's--mansion--and--for--all--other~~] state-owned
7 buildings maintained by the commission.

8 (2) [~~"Commission"--means--the--State--Purchasing---and~~
9 ~~General-Services-Commission-~~

10 [~~3~~] "Project" means any building construction
11 project, other than those specifically excluded by Sections 5.13
12 and 5.14 of this article, which shall be financed in whole or in
13 part by specific appropriation, bond issue or federal funds. The
14 term "project" shall include the construction of any building or
15 any structure or any facility or utility appurtenant thereto,
16 including original equipment and original furnishings thereof, and
17 of any addition to, alteration, rehabilitation, or repair of any
18 existing building or any structure, or any facility or utility
19 appurtenant thereto.

20 (3) [~~4~~] "Project analysis" refers to work done prior
21 to legislative appropriation for a project for the purpose of
22 developing a reliable estimate of the cost of a project to be
23 requested of the legislature.

24 (4) [~~5~~] "Cost of a project" includes, but shall not
25 be limited to, the cost of all real estate, properties, rights and
26 easements acquired, utility services, site development, the cost of
27 construction and the initial furnishing and equipment thereof, all

1 architectural and engineering and legal expenses, the cost of
2 surveys and plans and specifications, and such other expenses,
3 including those incurred by the commission, as are necessary or
4 incident to determining the feasibility or practicability of any
5 project.

6 (5) [~~+6~~] "Construction" means and includes
7 acquisition, construction, and reconstruction.

8 (6) [~~+7~~] "Rehabilitation" means and includes renewal,
9 restoration, extension, enlargement, and improvement.

10 (7) [~~+8~~] "Equipment" and "furnishings" mean and
11 include any equipment and furnishings whatsoever as may be
12 necessary and required for the use of a project.

13 (8) [~~+9~~] "Architect/engineer" means a person
14 registered as an architect pursuant to Chapter 478, Acts of the
15 45th Legislature, Regular Session, 1937, as amended (compiled as
16 Article 249a of Vernon's Texas Civil Statutes), and/or a person
17 registered as a professional engineer pursuant to Chapter 404, Acts
18 of the 45th Legislature, Regular Session, 1937, as amended
19 (compiled as Article 3271a of Vernon's Texas Civil Statutes),
20 employed to provide professional architectural or engineering
21 services and having overall responsibility for the design of a
22 project. The term "architect/engineer" standing by itself may,
23 unless the context clearly indicates otherwise, mean either an
24 architect/engineer employed by the commission on a salary basis or
25 an architect/engineer in private practice retained for a specific
26 project under a contractual agreement with the commission. The
27 term "private architect/engineer" shall specifically and

1 exclusively refer to a registered architect or a registered
2 engineer in private practice retained for a specific project under
3 a contractual agreement with the commission.

4 (9) [~~††0†~~] "Stage construction" means the construction
5 of a project in phases, each phase resulting in one or more
6 buildings or structures which individually or together shall be
7 capable of use regardless of whether subsequent phases of the
8 project are authorized or not.

9 SECTION 2.12. Section 5.13(d), State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
11 amended to read as follows:

12 (d) Sections 5.16, 5.17, 5.21, and 5.25 of this article
13 apply to construction projects undertaken by or for the
14 institutional division of the Texas Department of Criminal Justice
15 [~~Corrections~~]. No other provisions of this article apply to
16 construction projects undertaken by or for the institutional
17 division of the Texas Department of Criminal Justice [~~Corrections~~].

18 SECTION 2.13. Section 5.16(c), State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
20 amended by Section 4 of Chapter 362 and Section 4 of Chapter 571,
21 Acts of the 68th Legislature, Regular Session, 1983, is amended to
22 read as follows:

23 (c) A project analysis shall consist of (1) a complete
24 description of the facility or project together with a
25 justification of such facility or project prepared by the using
26 agency, (2) a detailed estimate of the amount of space needed to
27 meet the needs of the using agency and to allow for realistic

1 future growth, (3) a description of the proposed facility prepared
2 by an architect/engineer and including schematic plans and outline
3 specifications describing the type of construction and probable
4 materials to be used, sufficient to establish the general scope and
5 quality of construction, (4) an estimate of the probable cost of
6 construction, (5) a description of the proposed site of the project
7 and an estimate of the cost of site preparation, [and] (6) an
8 overall estimate of the cost of the project, (7) the information
9 about historic structures considered instead of new construction
10 that was prepared as required by Section 5.01A of this article, and
11 (8) other information as required by the commission. A project
12 analysis may include two or more alternative proposals for meeting
13 the space needs of the using agency by (1) new construction, (2)
14 acquisition and rehabilitation of an existing or historic
15 structure, or (3) a combination of the above. If any part of the
16 project involves the construction or rehabilitation of a building
17 that is to be used primarily as a parking garage or for office
18 space for the state government, the project analysis also shall
19 include a description of the amount and location of space in the
20 building that can be made available for lease, under Section 4.15
21 of this Act, to private tenants or shall include a statement of the
22 reason that the lease of space in the building to private tenants
23 is not feasible. All estimates involved in the preparation of a
24 project analysis shall be carefully and fully documented and
25 incorporated into the project analysis.

26 Throughout the preparation of the project analysis, the
27 commission and any private architect/engineer employed by the

1 commission shall work closely and cooperatively with the using
2 agency to the end that the project analysis shall fully reflect the
3 needs of the using agency.

4 The using agency shall use the cost of the project as
5 determined by such project analysis as the basis of its request to
6 the budget offices of this state.

7 SECTION 2.14. Section 5.18(b), State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
9 amended to read as follows:

10 (b) If the expenditures for fine arts are authorized and
11 appropriated by the legislature, the commission shall consult and
12 cooperate with the Texas Commission on the Arts [~~and--Humanities~~]
13 for advice in determining how to utilize the portion of the
14 appropriation to be used for fine arts projects.

15 SECTION 2.15. Sections 5.19(b) and (c), State Purchasing and
16 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
17 are amended to read as follows:

18 (b) The agency or the governing body of a political
19 subdivision may consult and cooperate with the Texas Commission on
20 the Arts [~~and-Humanities~~] for advice in determining how to utilize
21 the portion of the cost set aside for fine arts purposes.

22 (c) The Texas Commission on the Arts [~~and-Humanities~~] shall
23 place emphasis on works by living Texas artists whenever feasible,
24 and when consulting with the governing body of a political
25 subdivision, shall place emphasis on works by artists who reside in
26 or near the political subdivision. Consideration shall be given to
27 artists of all ethnic origins.

1 SECTION 2.16. Section 5.20(c), State Purchasing and General
2 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
3 amended to read as follows:

4 (c) Following final approval of the working plans and
5 specifications and their acceptance by the using agency, the
6 commission shall cause to be advertised in not less than two
7 newspapers of general circulation for bids or proposals for
8 performance of the construction and related work on the project.
9 The commission shall allow bidders at least 30 days after the date
10 that the commission issues the bid documents to respond to an
11 invitation to bid, but the commission may shorten the period to
12 prevent undue additional costs to a state agency or for emergency
13 projects to prevent or remove a hazard to life or property.
14 Subject to the applicable provisions of other law respecting the
15 award of state contracts, the contract or contracts shall be
16 awarded to the qualified bidder making the lowest and best bid; but
17 no contract shall be awarded for a sum in excess of the amount
18 which the comptroller shall certify to be available for such
19 project. The commission shall have the right to reject any and all
20 bids.

21 SECTION 2.17. Section 5.22, State Purchasing and General
22 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
23 amended by amending Subsection (b) and by adding Subsection (c) to
24 read as follows:

25 (b) Responsibility for the selection of a private
26 architect/engineer employed for any project covered by the
27 provisions of this article shall be vested in the commission. The

1 commission shall adopt rules that state the criteria the commission
2 uses to evaluate the competence and qualifications of private
3 architects/engineers. The commission shall develop the rules in
4 consultation with the Texas Board of Architectural Examiners and
5 the State Board of Registration for Professional Engineers. The
6 commission shall allow each private architect/engineer selected for
7 an interview at least 30 days after the date the commission
8 notifies the architect/engineer to prepare for the interview.

9 (c) In recognition of the close working relationship which
10 must exist between the architect/engineer and the using agency, the
11 commission shall request the using agency to make recommendations
12 regarding private architects/engineers and shall consider any such
13 recommendation in making its selection of a private
14 architect/engineer to be employed for a particular project. The
15 commission shall make its selection in accordance with the rules
16 adopted under Subsection (b) of this section [~~generally--accepted~~
17 ~~standards--for-such-selection~~] and [~~in-conformity-with~~] the ethical
18 standards of the professional societies of such
19 architects/engineers.

20 SECTION 2.18. Section 5.26(b), State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended to read as follows:

23 (b) The commission shall cause the uniform general
24 conditions of state building construction contracts to be reviewed
25 whenever in its opinion such review is desirable, but in no event
26 less frequently than once every five years. The review shall be
27 made by a committee appointed by the commission consisting of the

1 director of facilities construction and space management, who shall
2 serve ex officio as chairman of the committee and who shall vote
3 only in the event of a tie; two persons appointed by the commission
4 from a list of nominees submitted to it by the President of the
5 Texas Society of Architects; two persons appointed by the
6 commission from a list of nominees submitted to it by the President
7 of the Texas Society of Professional Engineers; [and] two persons
8 appointed by the commission from a list of nominees submitted to it
9 by the Chairman of the Executive Council of the Texas Associated
10 General Contractors Chapters; and two persons appointed by the
11 commission from the list of nominees submitted to it by the
12 Executive Secretary of the Mechanical Contractors Associations of
13 Texas, Incorporated. Members of any review committee appointed
14 pursuant to this subsection shall serve without compensation but
15 may be reimbursed for their necessary and actual expenses.

16 SECTION 2.19. Section 5.35(a), State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended to read as follows:

19 (a) The commission shall prepare a long-range plan regarding
20 the needs of state agencies in Travis County which obtain or occupy
21 space under provisions of this [~~the State--Purchasing--and--General~~
22 ~~Services~~] Act [~~{Article-601b, Vernon's Texas Civil Statutes}~~].

23 SECTION 2.20. Section 6.05(b), State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
25 amended by Section 3 of Chapter 779 and Section 5 of Chapter 1244,
26 Acts of the 71st Legislature, Regular Session, 1989, is amended to
27 read as follows:

1 (b) The space may be leased from another state agency
2 through an interagency contract, or from the federal government[~~7-a~~
3 ~~commercial-building-which-is-100-percent-owned, either directly--or~~
4 ~~indirectly,--by--a--statewide--Texas-public-retirement-system]~~ or a
5 political subdivision, including a county, a municipality, a school
6 district, a water or irrigation district, a hospital district, a
7 council of government, or a regional planning council, [~~or-from-a~~
8 ~~statewide-Texas-public-retirement-system-in-a--commercial--building~~
9 ~~that--is-100-percent-directly-or-indirectly-owned-by-the-retirement~~
10 ~~system,~~] through a negotiated contract. The space may also be
11 leased, through a negotiated contract, from a statewide Texas
12 public retirement system in a commercial building that is 100
13 percent directly or indirectly owned by the retirement system.

14 SECTION 2.21. Section 6.05(j), State Purchasing and General
15 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
16 amended to read as follows:

17 (j) In leasing space for the use of state agencies, the
18 commission shall give first consideration to a building that is a
19 historic structure under Section 442.001, Government Code [87
20 ~~Chapter-500, Acts-of-the-55th-Legislature, Regular--Session,--1957,~~
21 ~~as--amended-(Article-6145, Vernon's-Texas-Civil-Statutes)~~], or to a
22 building that has been designated a landmark by the local governing
23 authority, if the building meets requirements and specifications
24 and the cost is not substantially higher than other available
25 structures that meet requirements and specifications. Upon
26 consideration of the leasing of space for the use of a state
27 agency, the commission shall notify all individuals and

1 organizations that are within the county where the leasing is under
2 consideration and that are on a list furnished to the commission by
3 the Texas Historical Commission as required by Section 442.005,
4 Government Code [~~8C-of-Chapter-500, Acts-of-the--55th--Legislature,~~
5 ~~Regular---Session,---1957---(Article--6145,--Vernon's--Texas--Civil~~
6 ~~Statutes)~~]. At the end of a biennium, the commission shall report
7 to the legislature the commission's reasons for rejecting during
8 the biennium the lease of any historic structure whose owner bid to
9 lease space to the state.

10 SECTION 2.22. Section 6.06, State Purchasing and General
11 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
12 amended to read as follows:

13 Sec. 6.06. ELIMINATION OF BARRIERS TO HANDICAPPED PERSONS IN
14 STATE BUILDINGS. The commission may not enter a lease contract
15 under this article unless it complies with the provisions of
16 Article 9101, Revised Statutes [~~7-of-this-Act~~].

17 SECTION 2.23. Section 6.111, State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended to read as follows:

20 Sec. 6.111. DELEGATION OF AUTHORITY TO INSTITUTIONS OF
21 HIGHER EDUCATION. The commission may delegate to an institution of
22 higher education the authority to enter into space lease contracts
23 financed from sources other than funds appropriated from general
24 revenue, provided that an institution of higher education may not
25 enter a lease contract under this section unless it complies with
26 the provisions of Article 9101, Revised Statutes [~~7-of-this-Act~~]
27 concerning architectural barriers.

1 SECTION 2.24. Section 8.01(a), State Purchasing and General
2 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
3 amended to read as follows:

4 (a) This article applies to personal property belonging to
5 the state. [~~All personal property belonging to the state shall be~~
6 ~~accounted for by the head of the agency that has possession of the~~
7 ~~property.~~]

8 SECTION 2.25. Section 8.01(b), State Purchasing and General
9 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
10 amended by Section 97 of Chapter 584 and Section 3 of Chapter 781,
11 Acts of the 71st Legislature, Regular Session, 1989, is amended to
12 read as follows:

13 (b) The commission shall administer the property accounting
14 system and maintain a complete and accurate set of centralized
15 records of state property based on information supplied by state
16 agencies or the uniform statewide accounting system. The property
17 accounting system shall, to the extent possible, constitute the
18 fixed asset component of the uniform statewide accounting system.
19 The commission shall coordinate with the comptroller in issuing
20 rules, instructions, and necessary requirements for the property
21 accounting system. The rules, instructions, and requirements must
22 be consistent with the requirements of the uniform statewide
23 accounting system. [~~The commission shall issue rules and~~
24 ~~regulations and a manual of instruction and prescribe such records,~~
25 ~~reports, and forms necessary to accomplish the objects of this~~
26 ~~article subject to review and comment by the state auditor. The~~
27 ~~state auditor is directed to cooperate with the commission in the~~

1 ~~exercise--of--the--commission's-rulemaking-powers-herein-granted-by~~
2 ~~giving-technical-assistance-and-advice-]~~

3 SECTION 2.26. Section 8.02(b), State Purchasing and General
4 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 (b) All personal property owned by the state shall be
7 accounted for by the head of the agency that has possession of
8 ~~[possesses]~~ the property. The commission shall by rule
9 ~~[regulation]~~ define what is meant by personal property for the
10 purposes of this article, but such definition shall not include
11 nonconsumable personal property having a value of \$500 or less per
12 unit. In promulgating such rules ~~[regulations]~~, the commission
13 shall take into account the value of the property, its expected
14 useful life, and if the cost of record keeping bears a reasonable
15 relationship to the cost of the property on which records are kept.
16 The commission shall consult with the state auditor in making such
17 rules ~~[regulations]~~ and the auditor shall cooperate with the
18 commission in the exercise of this rulemaking power by giving
19 technical assistance and advice.

20 SECTION 2.27. Article 10, State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended by adding Section 10.071 to read as follows:

23 Sec. 10.071. USE OF SYSTEM BY CERTAIN STUDENTS. (a)
24 Institutions of higher education under Section 61.003, Education
25 Code, that are authorized to use the system of telecommunications
26 services established under this article may allow students of the
27 institution who reside in housing for which the institution

1 provides telephone service to use the system of telecommunications
2 services established under this article. An institution shall
3 recover from a student who chooses to use the system the full pro
4 rata cost attributable to that student's use.

5 (b) The commission shall adopt rules that govern student
6 access to the system, including times of access to the system, and
7 the full recovery of actual costs from each student who uses the
8 system.

9 SECTION 2.28. Section 11.01(b), State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
11 amended to read as follows:

12 (b) Any reference in the statutes to the State Board of
13 Control or [means] the State Purchasing and General Services
14 Commission means the General Services Commission.

15 SECTION 2.29. Section 11.02, State Purchasing and General
16 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
17 amended by Chapters 778 and 791, Acts of the 71st Legislature,
18 Regular Session, 1989, is amended to read as follows:

19 Sec. 11.02. DELIVERY OF CERTAIN INTERAGENCY MAIL. (a) The
20 commission shall operate a messenger service for handling the
21 delivery of unstamped written communications and packages between
22 state agencies, including the legislature and legislative agencies,
23 located in Travis County. All such agencies shall utilize the
24 service.

25 (b) Unless use of the United States Postal Service is
26 required by state or federal law, a state agency subject to
27 Subsection (a) of this section may not use the United States Postal

1 Service for delivery of interagency mail to another state agency in
2 Travis County, provided, however, state agencies subject to
3 Subsection (a) are not prohibited from using an alternate delivery
4 method.

5 (c) State warrants may be delivered upon agreement between
6 the state comptroller, the commission, and the agency concerned.

7 (d) United States mail may be delivered to and from the post
8 office located in the capitol complex on agreement of the
9 commission and the agency concerned. [~~d~~] It is the intent of
10 the legislature that mail be processed for delivery as
11 expeditiously as its priority dictates and that mail not be unduly
12 delayed solely for the purpose of achieving a lower rate of
13 postage.

14 (e) In order to improve state agency management of mail
15 operations and to reduce the state's mail costs, this Act requires
16 that state agencies of the executive branch of state government
17 established by the constitution or statutes of this state:

18 (1) evaluate their mail operations to identify and
19 eliminate practices resulting in excessive mailing costs; and

20 (2) develop and implement plans and programs for
21 making the necessary improvements in such operations.

22 (f) Not later than January 1, 1990, the commission [State
23 ~~Purchasing-and-General-Services-Commission~~] shall:

24 (1) evaluate the mail operations of agencies located
25 in Travis County to make recommendations to identify and eliminate
26 practices resulting in excessive mailing costs; and

27 (2) establish minimum mail-management objectives and

1 responsibilities to be carried out by offices and units of these
2 agencies.

3 (g) Not later than April 1, 1990, the commission [State
4 ~~Purchasing-and--General--Services--Commission~~] shall develop and
5 submit to the governor and the legislative budget office a
6 mail-management plan which provides for:

7 (1) improving the measurement of agency mail costs, in
8 conjunction with the United States Postal Service, including
9 considering the use of postage meters or stamps;

10 (2) determining the advantages to agencies of using
11 mail presorting programs;

12 (3) determining the lowest cost class of mail
13 necessary to effectively accomplish individual agency functions;

14 (4) evaluating the cost-effectiveness of using
15 alternatives to the United States Postal Service for the delivery
16 of agency mail; and

17 (5) training agency personnel regarding cost-effective
18 mailing practices.

19 (h) The commission [State-Purchasing--and--General--Services
20 ~~Commission~~] shall:

21 (1) establish programs to implement the plan prepared
22 under Subsection (g) of this section, including standards for
23 receipt, delivery, collection, and dispatch of mail; and

24 (2) publish and disseminate mail-management standards,
25 guides, and instructions and establish and implement procedures for
26 monitoring compliance with such standards, guides, and
27 instructions.

1 (i) State agencies in Travis County shall:

2 (1) periodically submit to the governor and the
3 legislative budget office reports of their progress in achieving
4 the objectives and other revisions of the plan required by
5 Subsection (g) of this section, including an analysis of savings
6 projected from the improvements in mail management provided for in
7 such revised plan;

8 (2) designate a person to be responsible for the
9 development and implementation of mail-management programs for all
10 offices and units of the agency; and

11 (3) review and consolidate mailing lists used by the
12 agency to distribute publications and other materials issued by the
13 agency.

14 (j) When two or more state agencies are providing common
15 services for mail management, those agencies may designate a single
16 agency to report on behalf of all agencies participating under the
17 contract.

18 SECTION 2.30. Sections 13.03(b)-(d), State Purchasing and
19 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
20 are amended to read as follows:

21 (b) In conducting a competitive cost review of the functions
22 performed by a state agency, the agency shall analyze all agency
23 activities, shall identify by November 1 of each year all
24 commercial activities performed by the agency, and shall develop a
25 schedule for the analysis of the commercial activities identified.
26 For each commercial activity identified, the agency shall also at
27 that time quantify in measurable units the amount of the activity

1 performed by the agency and identify the amount of money budgeted
2 for the activity by the agency. The administrative head of the
3 agency shall promptly submit the agency's inventory of commercial
4 activities, including the workload and budget information, together
5 with its analysis schedule to the State Auditor, Legislative Budget
6 Board, Governor's Office of Budget and Planning, Senate Finance
7 Committee, House Appropriations Committee, and commission for
8 review and comment. The agency shall then report its
9 determinations to its governing body and shall submit the schedule
10 to its governing body [for-approval] by December 1 of each year for
11 approval.

12 (c) After approval of the schedule by the governing body,
13 the state agency shall conduct a management study of the agency
14 functions specified in the schedule. The agency shall conduct the
15 study in accordance with instructions issued by the commission. At
16 the minimum, a management study must contain:

- 17 (1) a description of the agency function;
18 (2) an analysis of the quality and quantity of the
19 work of the agency in relation to that function; and
20 (3) a description of any efficiency initiatives that
21 the agency could implement to perform the function more
22 efficiently.

23 (d) The agency shall submit the completed management study
24 to the commission for approval. After the commission has approved
25 the study, the agency shall estimate the total cost to perform the
26 function and submit each agency in-house cost estimate to the State
27 Auditor for approval. If the agency has an internal auditor, the

1 agency shall submit its cost estimate to its internal auditor for
2 review before forwarding the cost estimate to the State Auditor.

3 SECTION 2.31. Section 13.05, State Purchasing and General
4 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 Sec. 13.05. DUTIES OF [STATE---PURCHASING---AND] GENERAL
7 SERVICES COMMISSION. (a) The commission by rule shall issue
8 instructions that govern the conduct of state agency management
9 studies under Section 13.03 of this article.

10 (b) The commission shall conduct a cost comparison review.
11 In conducting the cost comparison review, the commission shall:

12 (1) estimate the cost to purchase the service from the
13 private sector. In developing the estimate, the commission may use
14 specific area surveys, state average costs or current bid data;

15 (2) determine if the quality and quantity of service
16 that could be provided through purchase is at least equal to the
17 quality and quantity of service proposed in the agency management
18 study and in-house cost estimate;

19 (3) determine the total state cost incurred in
20 providing the service based on the approved agency in-house cost
21 estimate; and

22 (4) based on estimates of the total cost, compare the
23 total cost to the state to purchase the services with the total
24 state cost of providing the service.

25 (c) [(b)] After consultation with the agency and State
26 Auditor, the commission shall determine if the total state cost of
27 providing the service exceeds the cost of purchasing the service.

1 If the commission finds that at least the same quality and quantity
2 of service can be purchased at a savings of more than 10 percent,
3 the commission shall notify the chairman of the governing body of
4 the agency of the amount by which the agency's costs exceed the
5 costs of purchasing the service. The commission may request any
6 information from a state agency necessary to accomplish the purpose
7 of this subsection.

8 (d) The commission shall establish internal controls, when
9 the commission conducts competitive cost reviews of its own
10 commercial activity functions, to separate internally the duties
11 performed by the commission as a state agency subject to this
12 article and the duties performed by the commission for all state
13 agencies subject to this article.

14 SECTION 2.32. Section 13.07, State Purchasing and General
15 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
16 amended to read as follows:

17 Sec. 13.07. SAVINGS FROM EFFICIENCY INITIATIVE. Except for
18 savings allocated to the productivity bonus program [~~Article~~
19 ~~6252-297-Vernon's-Texas-Civil-Statutes~~], and the state employee
20 incentive program (Article 6252-29a [6252-28], Vernon's Texas Civil
21 Statutes), all savings that result from reduced costs under the
22 efficiency initiative shall be used by the agency for treatment,
23 rehabilitation, or other direct services the agency provides to
24 persons it serves or, when savings result to the commission, for
25 direct services the commission provides to state government.

26 SECTION 2.33. Section 13.09, State Purchasing and General
27 Services Act (Article 601b, Vernon's Texas Civil Statutes), is

1 amended to read as follows:

2 Sec. 13.09. APPLICATION. The state agencies subject to this
3 article are:

4 (1) the Texas Department of Mental Health and Mental
5 Retardation;

6 (2) the Texas Department of Human Services;

7 (3) the Texas Department of Criminal Justice
8 (institutional division) [~~Corrections~~]; [~~and~~]

9 (4) the Department of Agriculture;[~~and~~]

10 (5) [~~and~~] the Central Education Agency;[~~and~~]

11 (6) [~~and~~] the Texas Higher Education Coordinating
12 Board; and[~~and~~]

13 (7) the commission.

14 SECTION 2.34. Article 13, State Purchasing and General
15 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
16 amended by adding Section 13.10 to read as follows:

17 Sec. 13.10. SUNSET REVIEW OF PROGRAM. (a) The competitive
18 cost review program is subject to Chapter 325, Government Code
19 (Texas Sunset Act), as if the program were a state agency subject
20 to review under that chapter. Unless continued in existence as
21 provided by that chapter, the program is abolished and this article
22 of this Act expires September 1, 1995.

23 (b) To the extent Chapter 325, Government Code (Texas Sunset
24 Act), imposes a duty on a state agency under review, the commission
25 shall perform the duty as it applies to the competitive cost review
26 program.

27 SECTION 2.35. Section 14.01, State Purchasing and General

1 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
2 amended to read as follows:

3 Sec. 14.01. DIVISION. The travel division of the commission
4 is composed of the central travel office and the office of vehicle
5 fleet maintenance. The commission shall adopt rules to implement
6 this article, including rules related to:

7 (1) the structure of travel agency contracts that the
8 commission makes;

9 (2) the procedures the commission uses in requesting
10 and evaluating bids or proposals for travel agency contracts from
11 providers; and

12 (3) the use of negotiated contract rates for travel
13 services by state agencies.

14 SECTION 2.36. Section 14.02, State Purchasing and General
15 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
16 amended by amending Subsection (b) and adding Subsection (c) to
17 read as follows:

18 (b) The central travel office shall initially provide
19 services to designated agencies located in Travis County and shall
20 extend its services to all state agencies as it develops the
21 capability to do so. The office may negotiate contracts with
22 private travel agents, with travel and transportation providers,
23 and with credit card companies that provide travel services and
24 other benefits to the state. The commission shall make contracts
25 with more than one provider of travel agency services. Contracts
26 entered into under this section are not subject to the competitive
27 bidding requirements imposed under Article 3 of this Act. The

1 comptroller of public accounts shall audit for compliance of rules
2 adopted to enforce the provisions of this section.

3 (c) State agencies in the executive branch of state
4 government, other than institutions of higher education as defined
5 by Section 61.003, Education Code, shall participate in accordance
6 with commission rules in the commission's contracts for travel
7 services that are not travel agency services. The commission may
8 provide by rule for exemptions from required participation.
9 Agencies of the state that are not required to participate in
10 commission contracts for travel services may participate as
11 provided by Subsection (a) of this section.

12 SECTION 2.37. Section 14.04, State Purchasing and General
13 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
14 amended to read as follows:

15 Sec. 14.04. FEES. Fees collected by the travel division
16 under this article shall be deposited in the State Treasury to the
17 credit of the General Revenue Fund unless a different disposition
18 of the funds is required under federal law.

19 PART 3. SCHOOL BUSES

20 SECTION 3.01. Section 21.165, Education Code, is amended to
21 read as follows:

22 Sec. 21.165. PURCHASE THROUGH GENERAL SERVICES COMMISSION
23 [BOARD--OF--CONTROL]. (a) The purchase of motor vehicles
24 (including buses, bus chassis, bus bodies, tires, and tubes) by the
25 General Services Commission [Board--of--Control] shall be made in
26 compliance with the provisions of this section.

27 (b) The purchase must be made on the basis of competitive

1 bids submitted under [such] rules [~~and-regulations-as-may-be~~] made
2 by the General Services Commission [~~Board-of-Contro~~].

3 (c) The purchase must be authorized by a requisition, which
4 may be submitted by either a board of county school trustees or the
5 board of trustees of a school district. The requisition must
6 include a general description of the article or articles desired,
7 as well as any other applicable matter specified in this section.

8 (d) If the requisition is for the purchase of a motor
9 vehicle, bus, bus body, or bus chassis, it must be approved by
10 either the county school board when funded under law or the board
11 of trustees of a school district and by the commissioner of
12 education.

13 (e) If the requisition is for the purchase of tires and
14 tubes, it must be approved by the county superintendent or the
15 chief administrative officer of a school district.

16 (f) If the requisition is for the purchase of special
17 equipment required, because of climatic or road conditions, to
18 guarantee adequate safety and comfort of school children, the
19 requisition must describe the special conditions and requirements
20 so that the General Services Commission [~~Board-of-Contro~~] may
21 purchase equipment which it determines to be adapted or designed
22 for the conditions or requirements.

23 (g) The board of county school trustees or board of trustees
24 of a school district shall [~~requisition--must--contain--a~~
25 ~~certification-as-to-the-funds-that-will-be-available--to~~] pay for
26 the article or articles requisitioned as directed by the General
27 Services Commission.

1 SECTION 3.02. Section 21.180, Education Code, is amended to
2 read as follows:

3 Sec. 21.180. PURCHASE OF VEHICLES. ~~[(a)--Motor vehicles~~
4 ~~used-for-the-purpose-of--transporting--school--children,--including~~
5 ~~school--buses,--their--chassis--and/or-bodies-purchased-through-the~~
6 ~~state-board-of-control,--shall-be-paid-for-by--the--state--board--of~~
7 ~~control--as--set--out--in--applicable--laws.---The--legislature-may~~
8 ~~appropriate-out-of-any-money-in-the-state--treasury--not--otherwise~~
9 ~~appropriated--a--sum--not-exceeding-\$250,000,--or-as-much-thereof-as~~
10 ~~necessary,--for-the-state-board-of--control--to--be--used--for--such~~
11 ~~purposes.~~

12 ~~[(b)--Any--sum--appropriated--shall-be-known-as-the-school-bus~~
13 ~~revolving-fund.--When-motor-vehicles-and-school-buses-are-delivered~~
14 ~~to-the--various--schools--coming--within--the--provisions--of--this~~
15 ~~subchapter,--the--governing-bodies-of-those-schools--shall-reimburse~~
16 ~~the-state-board-of-control-for-the-money-expended-for--such--school~~
17 ~~buses--including-their-chassis-and/or-bodies-and-the-money--shall-be~~
18 ~~deposited-by-the-state-board-of-control-in-the-school-bus-revolving~~
19 ~~fund.~~

20 ~~[(c)]~~ All purchases of motor vehicles must comply with the
21 alternative fuels use requirements of Section 21.174.

22 SECTION 3.03. Sections 21.182(a), (d), and (h), Education
23 Code, are amended to read as follows:

24 (a) As an alternative to purchasing school buses, a county
25 or local district school board may contract with any person for
26 use, acquisition, or lease with option or options to purchase any
27 school bus or buses if, at the discretion of the school board, such

1 a contract is determined to be economically advantageous to the
2 school district and complies with the alternative fuels
3 requirements of Section 21.174. Contracts may be in the form of a
4 lease or a lease with option or options to purchase. A contract is
5 in the form of a lease if it is a contract for the use and
6 possession of one or more school buses for consideration.
7 Ownership of a bus acquired through a lease or a lease with an
8 option to purchase remains with the lessor unless the lessee
9 exercises an option to purchase and purchases the bus under the
10 option. A school bus that is leased or leased with an option to
11 purchase under this section must meet or exceed the requirements
12 related to safety that apply to purchased or privately operated
13 school buses under Section 11.12 of this code. Contracts in the
14 form of an installment purchase or any form other than a lease or a
15 lease with option or options to purchase shall be subject to the
16 provisions of Section 21.165, as well as rules [and-regulations] of
17 the [State-Purchasing-and] General Services Commission.

18 (d) The competitive bidding requirements of Section 21.901
19 apply to each contract in the form of a lease or lease with an
20 option to purchase under this section [Each--county--or--district
21 school--board--shall--comply-with-the-terms-of-the-Bond-and-Warrant
22 law-of-1931-(Article--2368a7--Vernon's--Texas--Civil--Statutes)--in
23 entering--into--contracts,--including--the-requirement-that-certain
24 contracts-be-awarded-pursuant-to-public-bids,--except-that-it-is-not
25 necessary-for-a-school-district-to-submit-the-question-of--entering
26 into-a-contract-to-a-referendum].

27 (h) A contract under this section may have any lawful term

1 of not less than two or more than~~[7-not--to--exceed]~~ 10 years. A
2 county or local district school board that contracts under this
3 section shall report the existence of the contract and the number
4 of buses under the contract to the General Services Commission
5 within 45 days after the date the contract was made. A county or
6 local district school board that terminates a contract under this
7 section before the two-year minimum term has expired shall report
8 the termination and the reason for the termination to the General
9 Services Commission within 45 days after the date the contract was
10 terminated.

11 SECTION 3.04. Section 21.901, Education Code, is amended by
12 adding Subsection (h) to read as follows:

13 (h) Each contract proposed to be made by any Texas public
14 school board for the lease of one or more school buses, including a
15 lease with an option to purchase, shall be submitted to competitive
16 bidding when the contract is valued at \$10,000 or more.

17 PART 4. ARCHITECTURAL BARRIERS

18 SECTION 4.01. Article 7, State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
20 transferred to Title 132A, Revised Statutes, redesignated as
21 Article 9101, Revised Statutes, and amended to read as follows:

22 Art. 9101 ~~[ARTICLE 7]~~. ARCHITECTURAL BARRIERS

23 Sec. 1 ~~[7-01]~~. POLICY. The provisions of this article are
24 to further the policy of the State of Texas to encourage and
25 promote the rehabilitation of persons with disabilities
26 ~~[handicapped-or-disabled-citizens]~~ and to eliminate, insofar as
27 possible, unnecessary barriers encountered by ~~[aged, handicapped,~~

1 ~~or-disabled~~] persons with disabilities, whose ability to engage in
2 gainful occupations or to achieve maximum personal independence is
3 needlessly restricted when such persons cannot readily use public
4 buildings.

5 Sec. 2 [7-02]. APPLICATION. (a) The standards and
6 specifications adopted under this article shall apply to all
7 buildings and facilities used by the public which are constructed
8 in whole or in part by the use of state, county, or municipal
9 funds, or the funds of any political subdivision of the state. To
10 such extent as is not contraindicated by federal law or beyond the
11 state's power of regulation, these standards shall also apply to
12 buildings and facilities constructed in this state through partial
13 or total use of federal funds. All buildings and facilities
14 constructed in this state, or substantially renovated, modified, or
15 altered, after the effective date of this article from any one of
16 these funds or any combination thereof shall conform to each of the
17 standards and specifications adopted under this article except
18 where the governmental department, agency, or unit concerned shall
19 determine, after taking all circumstances into consideration, that
20 full compliance with any particular standard or specification is
21 impracticable. Where it is determined that full compliance with
22 any particular standard or specification is impractical, the
23 reasons for such determination shall be set forth in written form
24 by those making the determination and forwarded to the department
25 [~~commission~~]. If it is determined that full compliance is not
26 practicable, there shall be substantial compliance as determined by
27 the department with the standard or specification to the maximum

1 extent practical, and the file system maintained by the department
2 shall include the written record of the determination that it is
3 impractical to comply fully with a particular standard or
4 specification and shall also set forth the extent to which an
5 attempt will be made to comply substantially with the standard or
6 specification.

7 (b) These standards and specifications shall be adhered to
8 in those buildings and facilities under construction on the
9 effective date of this article, unless the authority responsible
10 for the construction shall determine that the construction has
11 reached a state where compliance is impractical. This article
12 shall apply to temporary or emergency construction as well as
13 permanent buildings.

14 (c) These standards and specifications shall be adhered to
15 in all buildings leased or rented in whole or in part for use by
16 the state under any lease or rental agreement entered into on or
17 after January 1, 1972. To such extent as is not contraindicated by
18 federal law or beyond the power of the state's regulation, these
19 standards shall also apply to buildings or facilities leased or
20 rented for use by the state through partial or total use of federal
21 funds. Facilities which are the subject of lease or rental
22 agreements on January 1, 1972, will not be required to meet
23 standards and specifications for the term of the existing lease or
24 rental agreement but must be brought into compliance before a lease
25 or rental agreement is renewed. Where it is determined by the
26 governmental department, agency, or unit concerned that full
27 compliance with any particular standard is impractical, the reasons

1 for such determination shall be set forth in written form by those
2 making the determination and forwarded to the department
3 [commission]. If it is determined that full compliance is not
4 practical, there shall be substantial compliance as determined by
5 the department with the standard or specification to the maximum
6 extent practical, and the file system maintained by the department
7 shall include the written record of the determination that it is
8 impractical to comply fully with a particular standard or
9 specification and shall also set forth the extent to which an
10 attempt will be made to comply substantially with the standard or
11 specification.

12 (d) Except as otherwise provided in Subsection (e) of this
13 section, these standards and specifications shall be adhered to in
14 certain privately financed buildings, building elements, and
15 improved areas which are open to public use for education,
16 employment, transportation, or acquisition of goods and services,
17 and which are constructed on or after January 1, 1978, in counties
18 with a population of 45,000 or more or on or after January 1, 1992,
19 in all other counties. Such facilities include the following:

20 (1) shopping centers which contain in excess of five
21 separate mercantile establishments; compliance with accessibility
22 standards and specifications relative to toilet rooms shall not
23 apply unless the shopping center elects to have public toilet
24 rooms;

25 (2) passenger transportation terminals;

26 (3) theaters and auditoriums having a seating capacity
27 for 200 or more patrons;

1 (4) hospitals and related medical facilities which
2 provide direct medical service to patients;

3 (5) nursing homes and convalescent centers;

4 (6) buildings containing an aggregate total of 20,000
5 or more square feet of recognizable office floor space;

6 (7) funeral homes; and

7 (8) commercial business and trade schools.

8 (e) The commissioner [~~commission~~] shall have the authority
9 to waive or modify accessibility standards and specifications when
10 application of such standards and specifications is considered by
11 the commissioner [~~commission~~] to be irrelevant to the nature, use,
12 or function of a building or facility covered by this article. The
13 commissioner [~~commission~~] shall not waive or modify any standard or
14 specification when such action would result in a significant
15 impairment of the acquisition of goods and services by
16 [handicapped] persons with disabilities or substantially reduce the
17 potential for employment of [handicapped] persons with
18 disabilities. All evidence supporting waiver or modification
19 determinations made by the commissioner [~~commission~~] shall be made
20 a matter of record and become part of the file system maintained by
21 the department [~~commission~~].

22 Sec. 3 [~~7-03~~]. SCOPE. (a) This article is concerned with
23 nonambulatory disabilities, semiambulatory disabilities, sight
24 disabilities, hearing disabilities, disabilities of coordination,
25 and aging.

26 (b) It is intended to make all buildings and facilities
27 covered by this article accessible to, and functional for, persons

1 with disabilities [~~the--physically--handicapped~~] to, through, and
2 within their doors, without loss of function, space, or facilities
3 where the general public is concerned.

4 Sec. 4 [7-04]. DEFINITIONS. For the purpose of this article
5 the following terms have the meanings as herein set forth:

6 (1) "Nonambulatory disabilities" means impairments
7 that, regardless of cause or manifestation, for all practical
8 purposes, confine individuals to wheelchairs.

9 (2) "Semiambulatory disabilities" means impairments
10 that cause individuals to walk with difficulty or insecurity.
11 Individuals using braces or crutches, amputees, arthritics,
12 spastics, and those with pulmonary and cardiac ills may be
13 semiambulatory. The listing here made is illustrative and shall
14 not be construed as being exhaustive.

15 (3) "Sight disabilities" means total blindness or
16 impairments affecting sight to the extent that the individual
17 functioning in public areas is insecure or exposed to danger.

18 (4) "Hearing disabilities" means deafness or hearing
19 handicaps that might make an individual insecure in a public area
20 because he is unable to communicate or hear warning signals.

21 (5) "Disabilities of coordination" means faulty
22 coordination or palsy from brain, spinal, or peripheral nerve
23 injury.

24 (6) "Aging" means those manifestations of the aging
25 processes that significantly reduce mobility, flexibility,
26 coordination, and perceptiveness but are not accounted for in the
27 aforementioned categories.

1 (7) "Commission" means the Texas Commission of
2 Licensing and Regulation.

3 (8) "Commissioner" means the commissioner of licensing
4 and regulation.

5 (9) "Department" means the Texas Department of
6 Licensing and Regulation.

7 (10) "Architect" means a person registered as an
8 architect under Chapter 478, Acts of the 45th Legislature, Regular
9 Session, 1937 (Article 249a, Vernon's Texas Civil Statutes).

10 (11) "Engineer" means a person registered as an
11 engineer under The Texas Engineering Practice Act (Article 3271a,
12 Vernon's Texas Civil Statutes).

13 Sec. 5 [7-05]. RESPONSIBILITIES FOR ENFORCEMENT. (a) In
14 the [The-responsibility-for] administration and enforcement of this
15 article [shall-reside--primarily--in--the--commission], [but] the
16 commissioner [commission] shall have the assistance of appropriate
17 state rehabilitation agencies in carrying out commissioner [its]
18 responsibilities [under-this-article]. State agencies involved in
19 extending direct services to [disabled-or-handicapped] persons with
20 disabilities are authorized to enter into interagency contracts
21 with the department [commission] to provide such additional funding
22 as might be required to insure that service objectives and
23 responsibilities of such agencies are achieved through the
24 administration of this article. In enforcing this article the
25 commissioner [commission] shall also receive the assistance of all
26 appropriate elective or appointive state officials. The
27 commissioner may contract with other state agencies, political

1 subdivisions, nonprofit organizations, and private independent
2 contractors to perform the commissioner's review and inspection
3 functions for privately financed buildings that are not leased by
4 the state or a political subdivision, and may terminate those
5 contracts for cause. The department [~~commission~~] shall from time
6 to time inform professional organizations and others, including
7 persons with disabilities, architects, engineers, and other
8 building professionals, of this law and its application.
9 Information disseminated by the department about the program shall
10 include the types of buildings and leases covered by this article,
11 the procedures for submitting plans and specifications for review,
12 complaint procedures, and the address and phone number of the
13 department's program. The department may enter into cooperative
14 agreements to integrate information about the program with
15 information produced or distributed by other public entities or by
16 private entities.

17 (b) The commissioner [~~commission~~] shall have all necessary
18 powers to require compliance with the commissioner's [~~its~~] rules
19 and regulations and modifications thereof and substitutions
20 therefor, including powers to institute and prosecute proceedings
21 under Section 18, Article 9100, Revised Statutes [~~in--the--district~~
22 ~~court--to-compel-such-compliance~~], and shall not be required to pay
23 any entry or filing fee in connection with the institution of such
24 proceedings. The commission may also impose an administrative
25 penalty under Section 17, Article 9100, Revised Statutes, on a
26 private building owner for a violation of this article or a rule
27 adopted under this article. Each day that the violation is not

1 corrected constitutes a separate violation. The commissioner
2 [commission] or a [handicapped] person with disabilities who seeks
3 injunctive relief to obtain compliance with the rules and
4 regulations, and the commissioner when the commission considers
5 imposing an administrative penalty under this section, shall first
6 notify a person responsible for the building and allow that person
7 90 days to bring the building into compliance. The commissioner
8 [commission] shall have the authority to extend the 90-day period
9 when circumstances justify such extension.

10 (c) [~~The--commission--is-authorized-to-promulgate-such-rules~~
11 ~~and-regulations-as-might-reasonably-be-required--to--implement--and~~
12 ~~enforce--this--article-]~~ The standards and specifications to be
13 adopted by the commissioner [commission] under this article shall
14 be consistent in effect to those adopted by the American National
15 Standards Institute, Inc. (or its federally recognized successor in
16 function), and the department [commission] shall publish the
17 standards and specifications in a readily accessible form for the
18 use of interested parties.

19 (d) All plans and specifications for construction or for the
20 substantial renovation, modification, or alteration of buildings
21 subject to the provisions of this article shall be submitted to the
22 department [commission] for review and approval prior to the time
23 that construction or that substantial renovation, modification, or
24 alteration on the building begins [~~bidding-and-award--of--contract~~]
25 in accordance with rules and regulations adopted by the
26 commissioner [commission]. The plans and specifications shall be
27 submitted to the department by the architect or engineer who has

1 overall responsibility for the design of the constructed or
2 reconstructed building. The building owner shall submit the plans
3 and specifications to the department if there is no architect or
4 engineer with that responsibility. Likewise, any substantial
5 modification of approved plans shall be resubmitted to the
6 department [commission] for review and approval. If an architect
7 or engineer required to submit or resubmit plans and specifications
8 to the department fails to do so in a timely manner, the
9 commissioner shall report the fact to the Texas Board of
10 Architectural Examiners or the State Board of Registration for
11 Professional Engineers, as appropriate.

12 (e) The commissioner [commission] may review plans and
13 specifications, make inspections, and issue certifications that
14 structures not otherwise covered by this article are free of
15 architectural barriers and in compliance with the provisions of
16 this article. The department shall inspect each building subject
17 to this article within the first year after the date that
18 construction or substantial renovation, modification, or alteration
19 of the building is completed. The department shall inspect each
20 building that is subject to this article because of a lease to the
21 state during the first year of the lease. [The-commission-is
22 authorized-to-charge-a-fee7-not-to-exceed-\$1007-for-review-of-plans
23 and-specifications7-inspection7-and-certification-of-each-privately
24 owned-building-or-facility7-

25 [~~f~~]~~--With-respect-to-buildings-and-facilities-that-are-under~~
26 ~~the-jurisdiction-and-control-of-The-University-of--Texas--Board--of~~
27 ~~Regents7--the--responsibility-for-administration-and-enforcement-of~~

1 ~~this-article-shall-reside-in--such--governing--board,--and--in--the~~
2 ~~discharge-of-such-responsibility-the-governing-board-shall-have-the~~
3 ~~same--responsibilities,--duties,--powers,--and--authority--that-are~~
4 ~~herein-imposed-on-and-delegated-to-the-commission-with--respect--to~~
5 ~~all-other-buildings-and-facilities-covered-by-this-article.]~~

6 Sec. 6. The commission shall set and charge, in accordance
7 with Section 12, Article 9100, Revised Statutes, fees for
8 performing its functions under this article. The fees shall be
9 paid by the owner of a building when the department performs a
10 function related to the building under this article. The fees must
11 include a fee for:

12 (1) reviewing the plans or specifications of a
13 building;

14 (2) inspecting a building; and

15 (3) processing a request to waive or modify
16 accessibility standards for a building.

17 Sec. 7. (a) The commission shall appoint an advisory
18 committee for the architectural barriers program. The committee
19 shall be composed of building professionals and persons with
20 disabilities who are familiar with architectural barrier problems
21 and solutions. The committee shall be composed of at least eight
22 members. Persons with disabilities must make up a majority of the
23 membership.

24 (b) A committee member serves at the will of the commission.
25 A member may not receive compensation for service on the committee
26 but is entitled to reimbursement for actual and necessary expenses
27 incurred in performing functions as a member.

1 (c) The committee shall elect a member of the committee as
2 chair. The committee shall meet at least twice each calendar year
3 at the call of the committee chair or at the call of the
4 commissioner.

5 (d) The committee periodically shall review the rules
6 relating to the architectural barriers program and recommend
7 changes in the rules to the commission and the commissioner. The
8 commissioner shall submit all proposed changes to rules and
9 procedures that relate to the architectural barriers program to the
10 committee for review and comment before adoption or implementation
11 of the new or amended rule or procedure.

12 Sec. 8. All references in law to the former architectural
13 barriers statute, Article 7, State Purchasing and General Services
14 Act (Article 601b, Vernon's Texas Civil Statutes), mean this
15 article.

16 SECTION 4.02. Section 11, Chapter 478, Acts of the 45th
17 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
18 Civil Statutes), is amended to read as follows:

19 Sec. 11. REVOCATION OR CANCELLATION OF CERTIFICATE.
20 Registration certificates of architects issued in accordance with
21 this Act shall remain in full force and effect until expiration
22 date unless revoked or suspended for cause as herein provided. The
23 registration certificate and right of any person to practice
24 architecture in this State may be revoked or cancelled or a fine
25 not to exceed One Thousand Dollars (\$1,000.00) may be levied
26 against that person, or any combination thereof, by the Texas Board
27 of Architectural Examiners after due notice and hearing and upon

1 the proof of the violation of the law in any respect in regard
2 thereto, or for any cause for which the Texas Board of
3 Architectural Examiners is authorized to refuse to grant
4 registration certificates, or for proof of gross incompetency, or
5 for recklessness in the construction of buildings on the part of
6 the architect designing, planning, or observing or supervising the
7 construction or alteration of same, or for dishonest practice on
8 the part of the holder of such registration certificate, or for
9 failing to timely provide plans and specifications to the Texas
10 Department of Licensing and Regulation as required by Article 9101,
11 Revised Statutes. The action of the Board in revoking or
12 cancelling such registration certificate, refusing to grant a
13 certificate, or assessing a fine may be appealed in the manner
14 provided by the Administrative Procedure and Texas Register Act
15 (Article 6252-13a, Vernon's Texas Civil Statutes).

16 SECTION 4.03. Section 22(a), The Texas Engineering Practice
17 Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to
18 read as follows:

19 (a) The Board shall revoke, suspend, or refuse to renew a
20 registration, shall reprimand a registrant, may deny an application
21 for registration, or may probate any suspension of any registrant
22 who is determined by the Board to be censurable for:

23 (1) The practice of any fraud or deceit in obtaining a
24 certificate of registration;

25 (2) Any gross negligence, incompetency, or misconduct
26 in the practice of professional engineering as a registered
27 professional engineer;

1 (3) Any documented instance of retaliation by an
2 applicant against an individual who has served as a reference for
3 that applicant; [or]

4 (4) A violation of this Act or a Board rule; or

5 (5) A failure to timely provide plans and
6 specifications to the Texas Department of Licensing and Regulation
7 as required by Article 9101, Revised Statutes.

8 PART 5. OTHER MATTERS RELATING TO STATE

9 ACQUISITION OF PROPERTY AND SERVICES

10 SECTION 5.01. Section 9, Texas Public Finance Authority Act
11 (Article 601d, Vernon's Texas Civil Statutes), is amended to read
12 as follows:

13 Sec. 9. ISSUANCE OF BONDS. (a) The board may issue and
14 sell bonds in the name of the authority to finance projects that
15 consist of the acquisition or construction of buildings in Travis
16 County, Texas. Upon receiving a request described in Section 5.34,
17 State Purchasing and General Services Act (Article 601b, Vernon's
18 Texas Civil Statutes), the board may issue bonds in amounts up to
19 the previously authorized amount of bonds plus five percent of the
20 acquisition cost of the property, all as described in the request.

21 (b) When the acquisition or construction of a building has
22 been authorized in accordance with this Act or under Section 5.34,
23 State Purchasing and General Services Act (Article 601b, Vernon's
24 Texas Civil Statutes), the board shall promptly issue and sell
25 bonds in the name of the authority under this Act, including
26 Sections 10B and 16 of this Act, to finance the acquisition or
27 construction of the building. When the proceeds from the bond

1 issuance are available, the board shall promptly deposit the
2 proceeds in the state treasury under Section 23 of this Act and
3 shall promptly make the determinations that are to be made by the
4 board under Section 23 of this Act.

5 (c) The commission or other state agency involved in
6 acquiring or constructing a building financed by the issuance of
7 bonds under this Act shall carry out its statutory authority as if
8 the building were financed by legislative appropriation. The board
9 and either the commission or another state agency involved in the
10 acquisition or construction of a building shall adopt a memorandum
11 of understanding that defines the division of authority between the
12 board and the commission or agency.

13 SECTION 5.02. Chapter 454, Acts of the 65th Legislature,
14 Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil
15 Statutes), is reenacted and amended to read as follows:

16 Sec. 1. DEFINITIONS. In this Act:

17 (1) "Consulting service" means the human service of
18 studying or advising an agency under an independent contract. [The
19 ~~term---includes---routine---work---provided---to---an---agency---under---an~~
20 ~~independent-contract-that-is-necessary-to-the--functioning--of--the~~
21 ~~agency's--programs--]~~ The term includes only services for which
22 payment is made from funds:

23 (A) that are appropriated by the legislature;

24 (B) that are generated by statutory functions of
25 the agency; or

26 (C) that are received by the state from the
27 federal government and that are awarded to the state without

1 requiring the state to request the funds through a grant program.

2 (2) "Private consultant" means an entity that performs
3 consulting services.

4 (3) "State agency" means any state department,
5 commission, board, office, institution, facility, or other agency,
6 including a university system or an institution of higher education
7 as defined in Section 61.003, Texas Education Code, as amended,
8 other than a public junior college.

9 Sec. 2. EXEMPTION. This Act does not apply to employment of
10 registered professional engineers or registered architects for
11 architectural or engineering studies or for the design or
12 construction of state facilities, private legal counsel, investment
13 counselors, actuaries, or physicians, dentists, or other medical or
14 dental services providers, and it is not intended to discourage
15 their use.

16 Sec. 3. USE AND SELECTION OF PRIVATE CONSULTANT. (a) A
17 state agency may use a private consultant only if:

18 (1) there is a substantial need for the consulting
19 services; and

20 (2) the state agency cannot adequately perform the
21 consulting services with its own personnel or through contract with
22 another state agency.

23 (b) In selecting a private consultant, a state agency shall:

24 (1) base its choice on demonstrated competence,
25 knowledge, and qualifications, and on the reasonableness of the
26 proposed fee for the services; and

27 (2) when other considerations are equal, give a

1 preference to a private consultant whose principal place of
2 business is within the state or who will manage the consulting
3 engagement wholly from one of its offices within the state.

4 Sec. 4. NOTICE OF INTENT TO EMPLOY CONSULTANT. (a) On the
5 same date that a state agency files with the secretary of state the
6 information required under Subsection (a) of Section 6 of this Act,
7 the agency shall file the same information with the General
8 Services Commission. The commission shall review the description
9 of the service for which the agency proposes to contract and
10 determine whether the service is within this Act's definition of a
11 consulting service in the opinion of the commission. The
12 commission shall provide its determination to the agency within 10
13 working days after the date that the commission received the
14 required information. The commission shall adopt rules that set
15 forth the criteria the commission will use to determine whether a
16 service is within this Act's definition of a consulting service.

17 (b) At least 30 days before contracting to use a private
18 consultant whose total anticipated fee exceeds \$10,000, a state
19 agency shall notify the Legislative Budget Board and the Governor's
20 Budget and Planning Office of the agency's intent to use a private
21 consultant and shall supply the Legislative Budget Board and the
22 Governor's Budget and Planning Office with the determination of the
23 General Services Commission received under Subsection (a) of this
24 section and with information demonstrating that the agency has
25 complied with the policies of Section 3 of this Act.

26 Sec. 5. INFORMATION RELATING TO CONSULTANT STUDIES. (a)
27 After a state agency contracts to use a private consultant, the

1 state agency shall, upon request, supply the Legislative Budget
2 Board and the Governor's Budget and Planning Office with copies of
3 all documents, films, recordings, or reports of intangible results
4 of the consultant service that are developed by the private
5 consultant.

6 (b) Copies of all documents, films, recordings, or reports
7 of intangible results shall be filed with the Texas State Library
8 and shall be retained by the library at least five years after
9 receipt.

10 (c) As part of the biennial budgetary hearing process
11 conducted by the Legislative Budget Board and the Governor's Budget
12 and Planning Office, a state agency shall supply the Legislative
13 Budget Board and the Governor's Budget and Planning Office with
14 reports on what action was taken in response to the recommendations
15 of any private consultant employed by the state agency.

16 Sec. 6. PUBLICATION IN TEXAS REGISTER. (a) If it is
17 reasonably foreseeable that a proposed use of a private consultant
18 may involve a contract with a value in excess of \$10,000, a state
19 agency or a regional council of government created under Chapter
20 391, Local Government Code [~~570,--Acts--of--the--59th--Legislature,~~
21 ~~Regular--Session,--1965,--as-amended--(Article-101m,--Vernon's-Texas~~
22 ~~Civil-Statutes)~~], that proposes the use of a private consultant
23 shall file, at least 40 days before contracting with a private
24 consultant, the following information with the Secretary of State
25 for publication in the Texas Register:

26 (1) a notice of invitation for offers of consulting
27 services;

1 (2) the person who should be contacted by a private
2 consultant who wants to make an offer;

3 (3) the closing date for receipt of offers of
4 consulting services; and

5 (4) the procedure by which the agency or council of
6 government will award the contract for consulting services.

7 (b) A state agency or regional council of government that
8 complies with Subsection (a) of this section shall file within 10
9 days after contracting with the private consultant the following
10 information with the Secretary of State for publication in the
11 Texas Register:

12 (1) a description of the study that the private
13 consultant is to conduct;

14 (2) the name and business address of the private
15 consultant;

16 (3) the total value and the beginning and ending dates
17 of the contract; and

18 (4) the due dates of documents, films, recordings, or
19 reports of intangible results that the private consultant is to
20 present to the agency or council of government.

21 (c) The Texas State Library shall compile a list of
22 documents, films, recordings, and reports of intangible results
23 submitted to it under Section 5(b) of this Act and shall file the
24 list in each quarter of the calendar year with the Secretary of
25 State for publication in the Texas Register.

26 (d) If the consulting service desired by a state agency is a
27 continuation of a service previously performed by a private

1 consultant, the agency shall state this in the invitation for
2 offers filed with the Secretary of State under Subsection (a) of
3 this section. If the state agency intends to award the contract
4 for the consulting services to the private consultant that
5 previously performed the services unless a better offer is
6 submitted, it shall state this in the invitation for offers.

7 Sec. 6A. CONFLICTS OF INTEREST. An officer or employee of a
8 state agency who has a financial interest in a firm or corporation
9 that is a private consultant and that submits an offer to provide
10 consulting services to the agency or who is related within the
11 second degree by consanguinity or affinity to a person having the
12 financial interest shall report the financial interest to the
13 executive head of the state agency not later than the 10th day
14 after the day on which the private consultant submits the
15 consulting services offer.

16 Sec. 6B. RESTRICTION ON FORMER EMPLOYEES OF A STATE AGENCY.
17 A person who offers to perform a consulting service for a state
18 agency and who has been employed by the agency or by another state
19 agency at any time during the two years preceding the making of the
20 offer shall disclose in the offer the nature of the previous
21 employment with the agency or the other state agency, the date of
22 termination of the employment, and the annual rate of compensation
23 for the employment at the time of its termination. A state agency
24 that accepts the offer shall include in the information filed under
25 Subsection (b) of Section 6 of this Act a statement about the
26 previous employment and the nature of the employment.

27 Sec. 6C. CONTRACT VOID. (a) If a state agency contracts to

1 use a private consultant without complying with the requirements of
2 Section 6 of this Act or if a person contracts to perform a
3 consulting service for a state agency without complying with the
4 requirements of Section 6B of this Act, the contract is void.

5 (b) If a contract is void under this section, the
6 comptroller or a state agency may not make any payments under the
7 contract from any state or federal funds held in or outside the
8 State Treasury.

9 Sec. 6D. LEGISLATIVE INTENT. (a) It is the intent of the
10 legislature that this Act be interpreted in a manner that assures
11 the greatest fair competition in the selection by state agencies
12 and regional councils of government of private consultants under
13 contracts covered by this Act and that assures that all potential
14 providers of consulting services are afforded notice of the need
15 for and opportunity to provide the services.

16 (b) This Act is not intended to discourage the use by state
17 agencies or regional councils of government of private consultants
18 if their use may reasonably be expected to result in a more
19 efficient and less costly operation or project. This Act is not
20 intended to prohibit the letting of a sole-source contract for
21 consulting services if no proposal is received from a competent,
22 knowledgeable, and qualified private consultant at a reasonable
23 fee, after the procedures set forth in this Act have been followed.

24 PART 6. REPEALER

25 SECTION 6.01. (a) Section 3.27, State Purchasing and
26 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
27 is repealed.

1 (b) Section 6.051(b), State Purchasing and General Services
2 Act (Article 601b, Vernon's Texas Civil Statutes), as added by
3 Section 4, Chapter 779, Acts of the 71st Legislature, Regular
4 Session, 1989, is repealed.

5 (c) Article 99, State Purchasing and General Services Act
6 (Article 601b, Vernon's Texas Civil Statutes), is repealed.

7 PART 7. TRANSITIONAL MATTERS

8 SECTION 7.01. (a) As soon as possible on or after September
9 1, 1991, the governor shall appoint three new members to the
10 General Services Commission to achieve a six-member commission.
11 The governor shall appoint one new member to a term expiring
12 January 31, 1993, one new member to a term expiring January 31,
13 1995, and one new member to a term expiring January 31, 1997.

14 (b) Until all appointees have taken office, a quorum of the
15 commission is a majority of the number of members who have taken
16 office.

17 (c) Sections 2.051 and 2.061, State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
19 added by this Act, do not apply to a person who is a member of the
20 commission immediately before September 1, 1991, during the term
21 the person is serving at that time.

22 SECTION 7.02. (a) To the extent appropriate, the General
23 Services Commission shall exhaust its supplies of forms,
24 publications, documents, and other consumable property bearing its
25 former name before using new consumable property bearing the name
26 "General Services Commission."

27 (b) The first policy statement required to be filed under

1 Section 2.06(j), State Purchasing and General Services Act (Article
2 601b, Vernon's Texas Civil Statutes), as added by this Act, must be
3 filed before November 1, 1991.

4 (c) The change in law to Section 5.20(c), State Purchasing
5 and General Services Act (Article 601b, Vernon's Texas Civil
6 Statutes), made by this Act that relates to allowing bidders at
7 least 30 days to respond to an invitation to bid, and the change in
8 law to Section 5.22(b), State Purchasing and General Services Act,
9 made by this Act that relates to allowing each private
10 architect/engineer at least 30 days to prepare for an interview,
11 apply only in relation to a contract for which the commission
12 issues bid documents on or after September 1, 1991.

13 (d) The General Services Commission is required to identify
14 only one of its own commercial activities for competitive cost
15 review under Section 13.03, State Purchasing and General Services
16 Act (Article 601b, Vernon's Texas Civil Statutes), as amended by
17 this Act, for the biennium ending August 31, 1993.

18 SECTION 7.03. (a) The school bus revolving fund formerly
19 established under Section 21.180, Education Code, is abolished
20 subject to the satisfaction of any valid outstanding obligations
21 against the fund. The commission shall transfer any money
22 remaining in the fund after the satisfaction of all valid
23 outstanding obligations against the fund to the state treasury for
24 deposit in the general revenue fund. The commission shall transfer
25 any money received by the commission after the date the fund was
26 abolished that was owed to the fund before the date the fund was
27 abolished to the state treasury for deposit in the general revenue

1 fund.

2 (b) The changes in law made by this Act relating to a
3 contract for the lease of one or more school buses under
4 Section 21.182, Education Code, and other law apply only to a
5 contract made on or after September 1, 1991, except that the
6 reporting requirements added to Section 21.182(h), Education Code,
7 by this Act apply according to their terms to any contract under
8 Section 21.182. Otherwise, a contract for the lease of one or more
9 school buses that was made under Section 21.182, Education Code,
10 before September 1, 1991, is governed by the law relating to a
11 contract for the lease of one or more school buses by a county or
12 local district school board in effect on the date that the contract
13 was made, and that law is continued in effect for this purpose.

14 SECTION 7.04. (a) The changes in law made by Part 4 of this
15 Act relating to the dissemination of information about the
16 architectural barriers program and relating to the transfer of that
17 program from the General Services Commission to the Texas
18 Department of Licensing and Regulation apply beginning September 1,
19 1991. All other changes in law made by Part 4 of this Act relating
20 to the architectural barriers program do not apply until January 1,
21 1992, and until that date the former law governs the program and is
22 continued in effect for this purpose.

23 (b) On September 1, 1991, all powers, duties, and
24 obligations relating to the architectural barriers program are
25 transferred from the General Services Commission to the Texas
26 Department of Licensing and Regulation as provided by this Act.
27 All records and property in the custody of the commission that

1 relate to the program are transferred to the department. All
2 appropriations to the commission for the operation of the program
3 and all employees of the commission employed to operate the program
4 are transferred to the department. All investigations and all
5 filed complaints relating to the program are transferred without
6 change in status from the commission to the department. All
7 commission rules, standards, and specifications relating to the
8 program remain in effect as department rules, standards, and
9 specifications unless superseded by proper authority of the
10 department.

11 SECTION 7.05. A contract that was made before September 1,
12 1991, to which Chapter 454, Acts of the 65th Legislature, Regular
13 Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes),
14 applied is neither void nor voidable solely for a failure to comply
15 with that law's requirements, if the contract was made in
16 compliance with that law either as it was originally enacted in
17 1977 or as it was amended by Article 98, Chapter 773, Acts of the
18 66th Legislature, Regular Session, 1979.

19 PART 8. EFFECTIVE DATE; EMERGENCY CLAUSE

20 SECTION 8.01. This Act takes effect September 1, 1991.

21 SECTION 8.02. The importance of this legislation and the
22 crowded condition of the calendars in both houses create an
23 emergency and an imperative public necessity that the
24 constitutional rule requiring bills to be read on three several
25 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 1146

By Ston

A BILL TO BE ENTITLED

AN ACT

relating to the continuation, functions, and change of the name of the State Purchasing and General Services Commission, the transfer of responsibility for architectural barrier programs from the commission to the Texas Department of Licensing and Regulation, and the acquisition by the commission and other entities of property and services, including consulting services and school buses; providing penalties.

FEB 19 1991

1. Filed with the Chief Clerk.

FEB 28 1991

2. Read first time and Referred to Committee on

GOVERNMENT ORGANIZATION

3. Reported favorably (as amended) (as substituted) and sent to Printer at _____

4. Printed and distributed at _____

5. Sent to Committee on Calendars at _____

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

12. Ordered Engrossed at _____

13. Engrossed.

14. Returned to Chief Clerk at _____

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on _____

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by (a viva voce vote.) (_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments.)
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____

9/11